

Browne & Woods LLP

MEMORANDUM

STATE BAR OF CALIFORNIA INTELLECTUAL PROPERTY SECTION TRADE SECRET COMMITTEE

October 18, 2004 Meeting Minutes

1. **Attendance.** The following Committee members attended the October 18, 2004 telephonic meeting: Ben Scheibe, Bart Smith, Laura Wilson, Joanna Mendoza, Bec Edelsen, Randy Kay, and Scott Plamondon.
2. **Update On Trade Secrets Treatise.** Bec updated Committee members on the progress of the Trade Secret treatise edited by Randy Kay and Bec Edelson and written by members of the Committee. It is anticipated that the treatise will be promoted at the November 2004 IP Institute and published in the first quarter of 2005.
3. **Upcoming programs.**
 - a. **IP Institute – November 4-6, 2004** -- Disney's Grand California Hotel -- Bec Edelsen, Randy Kay, and the Honorable Mark Snauffer (Fresno Superior Court) will speak from 11:00 to noon on November 6, 2004 (note correction of date, program is on November 6, not November 4) as part of the annual IP Institute.
 - b. **Hold the Date – February 10, 2005:** Lunch program developed by Bec entitled *"Protecting Your Business From Departing Employees"*
4. **Speaking Opportunities/Writing Opportunities.**

The Committee members discussed potential writing and speaking opportunities. The members also discussed the need for the Committee to keep a flow of articles to *New Matter*. John Yates and Ben Scheibe have articles in progress that should be submitted in time to be published in the next two issues. Members interested in writing an article (from 1500 to 6000 words) should e-mail Ben with a proposed topic and target date so that Ben may reserve the topic with *New Matter* and coordinate the flow of articles from the Committee. Members are encouraged to take briefs or research memoranda from their practice and turn these into articles if the topics are of interest to the trade secret or IP community.

5. Plain English Trade Secret Jury Instruction Project. As mentioned in prior minutes, a subcommittee has been established, consisting of Ben Scheibe, Carolyn Sieve, Randy Kay, Marshall Lerner, Bec Edelson, and Robert Freitas. Robert Freitas has volunteered to head the Committee and to act as a clearinghouse to collect instructions from Committee members. Although Robert has received a few instructions, he has asked for additional instructions from Committee members. All Committee members are encouraged to provide trade secret instructions they have found useful in the past to Robert Freitas:

RFreitas@Orrick.com

6. New Project(s).

- a. Website:** The “Frequently Asked Questions” page on our Committee’s website is somewhat out of date. Committee members are asked to review the page with an eye towards updating the pages and making them more user friendly. Suggestions can be e-mailed to Ben (ben@brownnewoods.com) or submitted at the next meeting. One suggestion discussed was to post trade secret related articles from *New Matter* on the website. Ben is checking on this idea with the Executive Committee and the editors of *New Matter*. If anyone wants to volunteer to head up a website project, please e-mail Ben. Our current pages may be viewed at:

http://www.calbar.ca.gov/state/calbar/calbar_sections_generic.jsp?sImagePath=Intellectual-Property-Section_with-right-menu.gif&sCategoryPath=/Home/Attorney%20Resources/Sections/Intellectual%20Property%20Law/Standing%20Committees/Trade%20Secrets&sAdsPath=sectionsads/IP_Cmte_Secrets_Home.html&sFileType=HTML&sRightMenuPath=sectionsrightmenu/IP_Cmte_Home-Page.html&sCatHtmlPath=html/IP_Cmte_Secrets_Home.html

- b. **CLE By Phone:** Some interest was expressed in hosting telephonic CLE programs on trade secret related topics. The programs would be one hour; participants would participate by phone and receive CLE credit through the State Bar. Ben will poll the remaining members of the Committee and gauge interest. If there is sufficient interest, a volunteer or volunteers will be needed to put together a program or programs.
- c. **Legislative Reform:** Interest was expressed in seeking legislative reform on issues of interest to trade secret practitioners. One such issue is the possible abuse of the litigation process by asserting spurious claims of trade secrets in order to obtain access to a competitor's confidential information. Joanna Mendoza will circulate a draft identifying the issue and a possible remedy through the amendment of CCP § 2019(d). Ben and Randy will look into the logistical issues of having the Committee take a position on such issues.

7. **Next Meeting.** The Trade Secret Committee will have its next meeting as part of the IP Institute on November 5, 2004 at 12:15 p.m. Those attending the IP Institute are welcome to attend in person. Others can participate by phone. Ben will circulate call-in information in advance of the meeting.